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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/531,116

04/11/2005

Wilhelm Ove Lindqvist

204.909USN

4536

33369 7590 02/26/2008
FASTH LAW OFFICES (ROLF FASTH)
26 PINECREST PLAZA, SUITE 2
SOUTHERN PINES, NC 28387-4301

EXAMINER

MOHANDESI, JILA M

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

02/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/531,116	Applicant(s) LINDQVIST ET AL.	
	Examiner Jila M. Mohandesi	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/11/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The references cited in the Search Report 01/12/2005 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindqvist (US 6,247,249). Lindqvist discloses all the limitations as claimed including the following: providing a shoe insert (11) disposed inside the shoe (Figures 2-4), the shoe insert having an upper leg (12) and a lower leg (36) connected by a front end (at 29, 30) with an attachment segment, the upper leg having an upper concave segment (see Figures 1 and 7), the upper leg having an upper end point (16) and a lower leg having lower end point that (40) is separated from the upper end point by a distance (see figure 1), the insert having an effective length (from end points of legs to their connection point); putting a first load on the shoe and the insert (using the shoe having the insert);

compressing the upper end point towards the lower end point until the upper concave segment is in contact with the lower concave segment of the lower leg at a contact point is being remote from the attachment segment at the front end so that a loop is formed between the attachment segment and the contact segment (see Figures 1 and 7), the contact segment being remote from both the upper and the lower end points; and the upper concave segment being pressed against and facing the lower concave segment; bending the attachment segment until a contact point is formed when the upper concave segment comes into contact with the lower concave segment; putting a second load on the shoe and the insert, the second load being substantially greater than the first load; bending the upper leg and the lower leg at the contact point to form a contact segment that extends from the contact point towards the upper and lower end points and terminates at a separation point to progressively increase a stiffness of the upper and lower legs; the contact segment reducing the effective length to an effective length, the length extending from the contact segment to the upper and lower end points.

4. Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by either one of Herr et al. (US 6,029,374) or (US 5,701,686). Only reference to Herr et al. '374 will be discussed but one of ordinary skill in the art can apply the same reasoning to Herr '686). Herr et al. '374 discloses all the limitations as claimed including the following: providing a shoe insert (Figure 2) disposed inside the shoe (included in disclosure "for use with a shoe"), the shoe insert having an upper leg (17) and a lower leg (15) connected by a front end (10) with an attachment segment, the upper leg having an upper concave segment (see Figure 2), the upper leg having an upper end point (at 13)

and a lower leg having lower end point that (at 13) is separated from the upper end point by a distance (see figure 2), the insert having an effective length (from end points of legs to their connection point); putting a first load on the shoe and the insert (using the shoe having the insert); compressing the upper end point towards the lower end point until the upper concave segment is in contact with the lower concave segment of the lower leg at a contact point is being remote from the attachment segment at the front end so that a loop is formed between the attachment segment and the contact segment (curved front end, see Figure 12), the contact segment being remote from both the upper and the lower end points; and the upper concave segment being pressed against and facing the lower concave segment; bending the attachment segment until a contact point is formed when the upper concave segment comes into contact with the lower concave segment; putting a second load on the shoe and the insert, the second load being substantially greater than the first load; bending the upper leg and the lower leg at the contact point to form a contact segment that extends from the contact point towards the upper and lower end points and terminates at a separation point to progressively increase a stiffness of the upper and lower legs; the contact segment reducing the effective length to an effective length, the length extending from the contact segment to the upper and lower end points.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are shoe systems analogous to applicant's instant invention.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jila M Mohandesi/
Primary Examiner
Art Unit 3728

JMM
February 18, 2008